**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**DIVISION BENCH**

**CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. & HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.**

**Writ Appeal No. 113 of 2007**

**APPELLANT PETITIONER** : Gopal Singh Uikey, son of Mahadev Singh Uikey, aged about 56 years, Occupation- Tahsildar, Tahsil Charama, District Kanker (C.G.).

**VERSUS**

**RESPONDENTS :**

1. State of Chhattisgarh Through: The Secretary, Revenue Department, D.K.S. Bhawan, RAIPUR (C.G.).
2. The Collector, Uttar Bastar Kanker, District Uttar Bastar Kanker (C.G).

Writ Appeal under Section 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 read with Rule 157 (10) (a) of the Chhattisgarh High Court Rules, 2005

Present : Shri Rajesh Pandey, counsel for the appellant.
Shri N.K. Agrawal, Deputy Advocate General for the State.

**ORAL ORDER**
**(Passed on 28th June, 2007)**

The following oral order of the Court was passed by **Jagdish Bhalla, Ag. C.J.**

The appellant had challenged order of suspension in contemplation of enquiry before the Hon'ble Single Judge in WP (S) No.2661 of 2007 which was dismissed on 02.05.2007. The suspension order does not amount to punishment. It can only be challenged on two grounds; firstly, on the ground of violation of law and secondly on strong *mala fides*. As far as violation of law is concerned, there was no allegation on the part of the appellant, however, as far as *mala fides* are concerned, it has been submitted that because of some Dharna pradarshan, the appellant has been suspended.

However, I have been informed that charge-sheet containing three charges have been served upon the appellant/petitioner.

Learned counsel for the appellant/petitioner submits that the appellant/petitioner has been suspended for the charges relating to his work performance while he was functioning on the quasi judicial side. Accordingly, it has been urged that no action can be taken against the appellant on the said ground. Learned counsel for the appellant has relied upon para 12 of the judgment of Hon'ble the Apex Court in the matter ***Ramesh Chander Singh Versus High Court of Allahabad and another*** reported in ***(2007) 4 SCC 247***, which reads as under :

> "12. This Court on several occasions has disapproved the practice of initiation of disciplinary proceedings against officers of the subordinate judiciary merely because the judgments/orders passed by them are wrong. The appellate and revisional courts have been established and given powers to set aside such orders. The higher courts after hearing the appeal may modify or set aside erroneous judgments of the lower courts. While taking disciplinary action based on judicial orders, the High Court must take extra care and caution. "

Interestingly, learned Deputy Advocate General appearing for the State also relies on the paras 17 & 20 of the same judgment. The said paras read as under :

> "17. In ***Zunjarrao Bhikaji Nagarkar Vs Union of India (1997 7 SCC 409)*** this Court held that wrong exercise of jurisdiction by a quasi-judicial authority or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceeding. Of course, if the judicial officer conducted in a manner as would reflect on his reputation or integrity or good faith or there is a prima facie material to show recklessness or misconduct in discharge of his duties or he had

> acted in a manner to unduly favour a party or had passed an order actuated by a corrupt motive, the High Court by virtue of its power under Article 235 of the Constitution may exercise its supervisory jurisdiction. Nevertheless, under such circumstances it should be kept in mind that the judges at all levels have to administer justice without fear or favour. Fearlessness and maintenance of judicial independence are very essential for an efficacious judicial system. Making adverse comments against subordinate judicial officers and subjecting them to severe disciplinary proceedings would ultimately harm the judicial system at the grassroot level."
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> "20. As the Full Court alone is the ultimate competent authority to consider all disciplinary matters and has indeed taken the decision impugned before us, we remit the matter to the Full Court to consider afresh the question of imposition of appropriate punishment on the appellant."

The facts and circumstances of the case relied upon by the appellant are very interesting, wherein the Full Court of Allahabad High Court had taken a decision to punish the petitioner by stopping two increments for the wrong committed by him on the judicial side. Aggrieved by the same, the petitioner had filed a writ petition. The Division Bench of Allahabad High Court instead of upholding or refusing the view taken by the Full Court has reverted the petitioner from the cadre of Additional District Judge on which he had worked for 8 years to the cadre of Civil Judge. Aggrieved by the said order the petitioner approached Hon'ble the Apex Court.

Learned Deputy Advocate General has placed before us the relevant records containing charge sheets. Besides one charge i.e. Charge No.1 with regard to the wrong committed by the petitioner while working on the quasi judicial side, the other charge was while performing duties on the administrative side.

From perusal of the above paras, we find force in the argument of learned Deputy Advocate General Shri NK Agrawal and we are of the considered opinion that after considering the facts and circumstances of the case, Hon'ble the Apex Court remanded the matter to the Full Court, which is competent enough to deal with the matter.

Besides the above arguments in this writ appeal, we have perused the judgment of Hon'ble Single Judge. Except one ground that the petitioner has passed certain orders on the quasi judicial side and has been suspended because of Dharna pradarshan, no other ground has been argued by counsel for the petitioner/appellant before the Hon'ble Single Judge who by a reasoned order dismissed the writ petition and those reasons are not under challenge in this appeal. We find that, case of *mala fides* was not pressed before Hon'ble Single Judge.

We are in agreement with the view taken by the Hon'ble Single Judge. In these circumstances, there is neither any violation of law, nor *mala fides* to warrant this Court to show any interference. Accordingly, the writ appeal is dismissed.

Learned counsel for the appellant has requested that enquiry in the matter be expedited. We find it to be a reasonable request. Accordingly, it is provided that the appellant shall submit his reply within 15 days as agreed by his counsel and thereafter, let the enquiry be completed within a period of six weeks with a direction to the appellant to cooperate in the said enquiry.

**Sd//-**
**Acting Chief Justice**

**Sd/-**
**Dilip Raosaheb Deshmukh**
**Judge**

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